

REMARKS

Applicants respectfully request reconsideration of the present application in view of the reasons that follow.

No claims are currently being amended. Claims 1, 3-6, 8-11 and 13-15 remain pending in this application.

Rejection under 35 U.S.C. § 103

Claims 1, 3-6, 8-11 and 13-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,901,381 to Brown et al. (“Brown”) in view of U.S. Patent No. 5,893,076 to Hafner et al. (“Hafner”) and “The Silent Thief” to Myrick (“Myrick”). Applicants respectfully traverse this rejection for at least the following reasons.

Independent claim 1, with corresponding features in independent claims 6 and 7, recites: “calculating by one or more computers a variance between the amount of the material that was actually used for the amount of goods sold by the at least one of the stores, sold to the at least one of the stores and the amount of the material that should have been used based on the recipe for the amount of the goods sold.” Thus, the method of claim 1 is directed to solving, via determining the variance, the problems arising from the manual production of a good according to a recipe using one or multiple materials, where the recipe is not being followed accurately, i.e., where the amount of material that was actually used for making the amount of goods deviates from the amount of material that should have been used based on the recipe. The method of claim 1 aids in managing inventory of the different materials used to produce a good based on the sales of the good and the variance arising when the recipe is not followed accurately, such as when too much or too little of a material is actually used in producing the good. The variance may be caused, for example, by a manufacturer over or under portioning of an ingredient used to produce the good. The method of claim 1 allows, for example, for a supplier to adjust and balance the materials supplied as necessary based on the variance from a recipe. Brown, Myrick and Hafner fail to disclose the above quoted recited feature of claim 1.

Brown discloses an inventory system for dining cars on a train. The Brown system includes an inventory adjust module 74. The module 74 monitors the depletion of inventory stocked on a train during a trip (col. 11, lines 15-19). The module takes into account the ingredients or recipes of an item when calculating the available items for sale (col. 11, lines 20-22). When an item is sold, the ingredients associated with the sold item are deducted from the inventory (col. 11, lines 55-59).

Brown is not concerned with inventory and supply management based upon whether a recipe is accurately followed, and fails to disclose the feature of claim 1 of: “calculating by one or more computers a variance between the amount of the material, that was actually used for the amount of goods sold by the at least one of the stores, sold to the at least one of the stores and the amount of the material that should have been used based on the recipe for the amount of the goods sold.” That is, Brown is not concerned with the problems arising where the recipe is not being followed accurately, and does not disclose calculating a variance between the amount of the material that was actually used and the amount of the material that should have been used based on the recipe.

Indeed, Brown does not monitor whether or not a recipe is being followed accurately, by determining the recited variance, but merely presumes the recipe is being accurately followed. Brown is not concerned with issues such as whether one of its ingredients is being over portioned or under portioned and does not suggest allowing for the adjustment of the supply of an ingredient based on a variance from a recipe.

The Patent Office in the bridging paragraph on pages 3 to 4 of the Office Action apparently now recognizes that Brown does not disclose calculating a variance between an actual amount of material that was used and the amount of the material that should have been used. The Patent Office, however, supplies Myrick for curing the deficiencies of Brown. Applicants respectfully disagree.

Myrick discloses a system using statistical inventory reconciliation (SIR) to manage fuel inventory by analyzing daily fuel inventory readings (abstract). The SIR fuel managing system of Myrick provides a number of benefits including pilferage detection, and accounting for dispensing meter miscalibrations (abstract).

Myrick, however, does not disclose the feature of claim 1 of: “calculating by one or more computers a variance between the amount of the material, that was actually used for the

amount of goods sold by the at least one of the stores, sold to the at least one of the stores and the amount of the material that should have been used based on the recipe for the amount of the goods sold.” Myrick is merely concerned with managing fuel inventory by analyzing fuel inventory readings. Myrick does not disclose any recipe, or making a determination of the amount of material that was actually used in purportedly following a recipe. Myrick is not concerned with monitoring goods used in purportedly following a recipe in order to allow for adjustment and balance of the supply of ingredients as needed, but only in managing a goods (fuel) inventory, regardless of whether that good is used for a recipe. Indeed, whether or not Myrick monitors the amount of its goods (fuel) in inventory, Myrick in no way makes a suggestion of determining whether or not an amount of its good that was supposed to be used in following a recipe, was actually used.

In a similar fashion to Brown, Myrick is not concerned with issues such as whether an ingredient is being over portioned or under portioned and does not suggest allowing for the adjustment and balance of the supply of an ingredient based on a variance from a recipe. Myrick only determines the amount of goods at the inventory level, which is not the same as determining whether or not an amount of goods removed from inventory was used or not in following a recipe using the goods. The Myrick system does not account for whether its goods were used in following a recipe or not. Thus, even if Brown and Myrick were combined, the combination would not have the feature of claim 1 of: “calculating by one or more computers a variance between the amount of the material, that was actually used for the amount of goods sold by the at least one of the stores, sold to the at least one of the stores and the amount of the material that should have been used based on the recipe for the amount of the goods sold.”

Hafner was cited for other features of the claims, but fails to cure the deficiencies of Brown.

The dependent claims are patentable for at least the same reasons as their respective independent claims, as well as for further patentable features recited therein.

In view of the foregoing amendments and remarks, reconsideration and allowance of the application is respectfully solicited.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5485
Facsimile: (202) 672-5399

William T. Ellis
Attorney for Applicant
Registration No. 26,874

Thomas G. Bilodeau
Attorney for Applicant
Registration No. 43,438